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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 2527 of 2007

PETITIONER PLAINTIFFS : 1. Jagmohan S/o Firangi; aged about 60 years; 'Lodhi'
2. Moradhwaj S/o Firangi; aged about 57 years; 'Lodhi'
3. Ram Narayan S/o Bharat; aged about 50 years; 'Nayee';
4. Shatrughan S/o Thukel; aged about 60 years; 'Lodhi';
5. Reva Ram S/o Sumeri; aged bout 65 years; 'Lodhi';
6. Indal S/o Thukel aged about 60 years; 'Lodhi';
7. Sadva S/o Tatu aged about 55 years; 'Kewat' &
8. Aarva S/o Bharo; aged about 55 years; 'Sahu'

All r/o Village Paaragaon Kala; P.H. No. 13 R.I. Circle & Tahsil Dongargarh; Dist. Rajnandgaon [C.G.]

VERSUS

RESPONDENTS DEFENDANTS : 1) State of C.G. through Collector, Rajnandgaon (C.G.).
2) Executive Engineer; Water Resources Division Rajnandgaon; Distt. Rajnandgaon (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Mr. R.N.Jha, Advocate for the petitioner.
Miss Deepali Pandey, Panel Lawyer for the State / respondents.

ORDER

(Passed on 25th day of April, 2007)

1. This petition under Article 227 of the Constitution of India, questions the order dated 15.01.2007 (Annexure P/1) wherein the District Judge, Rajnandgaon has confirmed the finding and order passed by the Civil Judge, Class I, Dongargarh.

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2. The petitioner filed a suit for declaration and permanent injunction in the Court of Civil Judge, Class I, Dongargarh, wherein, the notification issued by the Central Government for acquiring the land was questioned. The petitioner further filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, seeking interim injunction against the Government till the disposal of the suit. The Civil Judge, Class I, Dongargarh by his order dated 12.09.2006 (Annexure P/12) dismissed the application on the ground that the application was an after thought and balance of convenience was not in favour of the petitioner.

3. In Miscellaneous Civil Appeal, the District Judge, Rajnandgaon, after having considered all the aspects, passed the judgment and order dated 15.01.2007 came to the conclusion that after issue of notification dated 26.11.2005, the construction of the canal has already begun. The petitioner is at the most entitled to compensation for acquisition of the land. The construction cannot be stopped as huge amount has been invested. In view of that, the District Judge, Rajnandgaon, dismissed the appeal holding that no case has been made out for grant of interim relief.

4. I have heard the learned counsel appearing for the parties, perused the pleadings and documents appended thereto. I find no infirmity, illegality or procedural error in the order dated 15.01.2007 passed by the District Judge, Rajnandgaon.

5. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned t hereby. Further, this Court can also entertain the petition in its

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jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

6. Applying the above settled principles of law to the facts of the present case, it does not warrant an interference with the impugned order passed by the Court below.

7. Thus, this petition is dismissed. No order as to costs.

8. Consequently, I.A. No. 1 and I.A. No. 2, application for grant of interim relief and application for urgent hearing respectively, stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Amit